

**DECLARATION OF JAMES R. DICKENS
EXHIBIT A
(PAGES 41-60)**

1 Q. Okay. As far as inquiring about your
2 daughter, that seems a rather natural question,
3 wouldn't you agree?

4 A. Yes.

5 Q. Did you take offense at that?

6 A. No. I feel sad.

7 Q. Oh, I understand. But he expressed his
8 empathy for your situation, did he not?

9 A. Yes.

10 Q. Other than inquiring about how she is,
11 any other comment about your daughter or your
12 absence by Mr. San Miguel?

13 A. Not on the first day. Not that day.

14 Q. Was there on another day?

15 A. The following day.

16 Q. Okay. What happened the following day?

17 A. He -- he -- we were talking at the
18 office.

19 Q. And what did you discuss?

20 A. About the projects that has to be done.

21 Q. Okay. What did you discuss about
22 those?

23 A. He also mentioned about the recovery.

24 Q. Well, did he make some comment about
25 your daughter?

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1 A. Yes.

2 Q. What?

3 A. He said that my recovery the previous
4 night was not good, and he said that "I know that
5 because of the problem with your daughter, you are
6 distracted."

7 Q. Well, it was true, you were distracted,
8 weren't you?

9 A. No.

10 Q. You mean to tell me, as a mother who
11 was taking her daughter to the Philippines and had
12 her attempt suicide, that that wasn't something in
13 your thoughts, and you weren't concerned about
14 that?

15 A. I was sad, sir, but I was not
16 distracted.

17 Q. Okay. Would you agree that sometimes
18 how we see ourselves is not how other people see
19 us?

20 A. No, sir.

21 Q. So you think everybody sees us the way
22 we see ourselves?

23 A. I don't know. I cannot think for
24 somebody's opinion, sir. But me, I -- I do what
25 has -- I have to do.

1 Q. All right. And so this was when you
2 first came on work, which would have been
3 wednesday, that second day?

4 A. This was on the 13th.

5 Q. The 13th. And I think that's
6 wednesday, if I recall the calendar correctly.

7 A. Maybe so.

8 Q. All right. Any other discussions on
9 the 13th with Mr. San Miguel about the prior
10 evening's performance?

11 A. He showed me a picture.

12 Q. A picture of what?

13 A. Of -- he said that -- of recoveries.

14 Q. Of the recovery the night before?

15 A. No.

16 Q. Of what?

17 A. Of recoveries when I was gone.

18 Q. And he said what about them?

19 A. He said mine is a little bit better
20 than that.

21 Q. But still not up to his standards?

22 A. Not up to his standards.

23 Q. All right. Why did he show you a
24 picture of other recoveries that weren't up to his
25 standards? Do you know?

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1 A. I think so that I can see how bad
2 recoveries before was.

3 Q. And did this, as you understood it, tie
4 in with his earlier statement to you that standards
5 had been raised and were going to be implemented,
6 higher standards?

7 A. That the standard has been raised. We
8 use that all the time to motivate our employees.

9 Q. So how did Tuesday go then, or the
10 second day go -- Wednesday, I guess it is?

11 A. He send me an e-mail about the baby
12 furniture plan-o-gram.

13 Q. Okay. And what was that e-mail
14 addressing, regarding the baby furniture
15 plan-o-gram?

16 A. That Minerva and Julita haven't
17 finished the baby furniture plan-o-gram.

18 Q. Did you assign the baby plan-o-gram to
19 Minerva and Julita?

20 A. No.

21 Q. Then why were they working on it, if
22 you had not assigned it to them?

23 A. Mr. San Miguel assigned it to them
24 prior to, when I was gone.

25 Q. But then you were supervising them

1 Q. So what did you do?

2 A. I went downstairs.

3 Q. Now, when you say "his office," so that
4 we're clear, in the Juneau store you go in the back
5 where the storage area is, and you go up a flight
6 of stairs. And there is a conference room, the
7 storage director's office, and then a larger office
8 for the department managers?

9 A. That's our office, yes, sir.

10 Q. All right. And so it is at the
11 managers' office where you initially talked to
12 Mr. San Miguel?

13 A. Yes.

14 Q. All right. You went back downstairs,
15 and how long were you downstairs working before you
16 next talked to Mr. San Miguel?

17 A. Around 30 minutes.

18 Q. Then what happened?

19 A. He called me on the phone.

20 Q. And said what?

21 A. And he said, "Okay. You can go
22 upstairs now."

23 Q. And did you?

24 A. Yes.

25 Q. And did you talk to Mr. San Miguel when

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1 you went upstairs?

2 A. He told me again -- when I got there,
3 he was on the phone, and he said, "Oh, I'll just
4 call you back again."

5 Q. And did he do that?

6 A. Yes.

7 Q. How much later?

8 A. Probably around 15 minutes or 30. I
9 can't remember.

10 Q. All right. And did he call you on the
11 floor again and say, "Come on up"?

12 A. Yes.

13 Q. And did you go on up?

14 A. Yes.

15 Q. Okay. And did you meet with him in his
16 office?

17 A. No. He was at the door. I didn't have
18 the chance to go inside the office.

19 Q. So did you just talk to him at the
20 door?

21 A. No. He led me to Fred Sayre's office,
22 to the director's office.

23 Q. Well, "led" -- they are side by side.
24 Instead of going in the second doorway, you simply
25 went into the first doorway, right?

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1 A. Yes. We were standing in there, and he
2 said, "Come on in here."

3 Q. All right. So you went into Fred
4 Sayre's office, and he's got a separate office as
5 the store director?

6 A. Yes, sir.

7 Q. Did you sit down?

8 A. He make a gesture for me to sit down.
9 I sit down.

10 Q. And was Mr. San Miguel standing or
11 sitting?

12 A. Standing.

13 Q. And where was Mr. Sayre?

14 A. Sitting at his desk.

15 Q. All right. What happened at that
16 point?

17 A. He put out a written warning notice and
18 start to read it to me.

19 Q. Well, which "he"?

20 A. Mr. San Miguel.

21 Q. All right. Are you saying he stood
22 there, or he sat down and read it to you?

23 A. He stood blocking the door.

24 Q. Well, the door was closed, wasn't it?

25 A. Yes, he close it. So I was sitting,

1 Mr. San Miguel asked you to sign that at the time?

2 A. Yes, sir.

3 Q. And what did you say?

4 A. I said, "I cannot sign this. This is
5 not true."

6 Q. Why is it not true?

7 A. Because I know I did a good recovery.
8 I know that my job performance is still the same
9 thing from the first day that I took that job.

10 Q. Have you had employees ever disagree
11 with your evaluation of their job performance and
12 walk off the job?

13 A. No, sir.

14 Q. So all the time you worked at Fred
15 Meyer, no one who worked when you were supervising
16 them at the time ever disagreed with your
17 evaluation of their performance?

18 A. They walk out of the job, but not with
19 job performance, with evaluation. I do not do the
20 evaluation, sir.

21 Q. All right. Let's go back. So your
22 testimony is that Mr. San Miguel reads you this
23 warning and then asks you to sign it, and you say
24 you won't sign it.

25 A. Yes, sir. I start to -- I was crying

1 already by the time he finish reading it. I was
2 already crying.

3 Q. Did you expect this?

4 A. No.

5 Q. You just told me earlier that you had
6 received several OVs that week from Mr. San Miguel
7 which were critical of your job performance, had
8 you not?

9 A. In the course of the job, sir, we
10 always receive OVs a lot of time, and also because
11 I know that I am doing a good job.

12 Q. Well, you just told me a few minutes
13 ago that Mr. San Miguel told you the very first
14 thing that standards are going to be higher when
15 you returned. Didn't he tell you that?

16 A. He tell that to me because he was
17 showing me all those that has not been done.

18 Q. All right. Let's go back to the
19 meeting on March the 18th, 2002. You start to cry.
20 Do you say anything else to Mr. Sayre or
21 Mr. San Miguel at that time?

22 A. I was crying so hard, sir, and I said,
23 "I need to go. I need to go."

24 Q. Go where?

25 A. Downstairs, where I have more space and

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1 where I can get something -- a glass of water or
2 something.

3 Q. Did Mr. Sayre say anything?

4 A. He said that "We know that your job
5 performance is affected by what happened to your
6 daughter."

7 Q. And did you respond to that?

8 A. Yes. I cry more.

9 Q. Did you respond to --

10 A. I said, "Please don't say that." I
11 said, "I have never left this store from the day I
12 come in here -- from the moment I come in here
13 until the moment that we close the store. I do not
14 leave this store. Please, do not say that, because
15 I am working harder when I was -- before what
16 happened to my daughter."

17 Q. All right. You come back from having
18 taking your daughter in a difficult family
19 situation, and upon your return, for several days
20 the department manager concludes that you are not
21 performing as -- in a satisfactory manner. Do you
22 think it unusual that he and the store director
23 would attribute that to a family situation?

24 A. No --

25 Q. Well then --

1 A. I don't understand the question, sir.
2 I get a little bit confused on that.

3 Q. Let me ask you this. What else did
4 Mr. Sayre say?

5 A. Nothing. He look at me there, while I
6 was crying, and I stood up.

7 Q. Did he say anything to you about,
8 "Don't leave. If you do, it will be considered a
9 quit"?

10 A. No, sir.

11 Q. Are you sure?

12 A. Yes.

13 Q. As a first assistant under Fred Meyer
14 policy in effect in March 2002, who at the store,
15 if anyone, had authority to terminate an employee
16 at your level?

17 A. Mr. San Miguel and Mr. Sayre.

18 Q. Do you know if Mr. San Miguel actually
19 had authority, or if it only could be Mr. Sayre?

20 A. Mr. San Miguel.

21 Q. And on what do you base that
22 conclusion?

23 A. Because he is our immediate boss.

24 Q. Have you ever known a situation where
25 the department manager had the authority to fire a

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1 first assistant without the actual approval and
2 firing done by the store director?

3 A. No, sir, I don't.

4 Q. Okay. Do you recall anything else that
5 was said by Mr. San Miguel or Mr. Sayre at that
6 point in time before you left the room?

7 A. No.

8 Q. Okay. You have no recollection of any
9 comments by Mr. Sayre as to what he would conclude
10 would be your situation if you got up and walked
11 out of the room before the discussion ended?

12 A. No, sir. I was crying very, very hard,
13 sir. I was saying something, and I don't even know
14 if they understand. I was saying, "I know you have
15 somebody in your mind" --

16 Q. Did you say that to them, or do you
17 know if they understood that?

18 A. I said, "You must have somebody in mind
19 to replace me."

20 Q. Now, why would you say that?

21 A. Because prior to that, I notice some
22 changes in the store -- in the department.

23 Q. What changes?

24 A. Mr. San Miguel had put me to the
25 schedule that is supposed to be for the second

1 Q. Let's start with my question. We'll go
2 back. You got up and left the room?

3 A. Yes.

4 Q. You started to tell me that you tried
5 to say something to them like you thought they were
6 going -- had someone in mind to replace you.

7 A. Yes.

8 Q. But you never followed up on that.
9 That's what I am trying to understand.

10 A. Okay. Now I understand. Because all
11 week long, Mr. San Miguel has been blaming me for
12 all that wrong that has been happening at the
13 store. He was blaming me for a bad recovery on
14 Saturday, on the 18th -- on the 16th, excuse me, on
15 the 16th while I was so -- he know that I was so
16 understaffed on that day.

17 Q. Well, weren't you the person in charge
18 on the 16th?

19 A. Yes, sir.

20 Q. So your defense of the poor recovery is
21 because you were understaffed?

22 A. My recovery is good. It has always
23 been good. But instead of praising me or giving me
24 some -- I mean to say realizing that, he's blaming
25 me. He knows that I was short of staff that day.

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1 Q. Why were you short of staff?

2 A. One of the employee call in sick, and
3 then he took Julita Lim for a long lunch.

4 Q. Well, now, wait a minute. That's not
5 true. He didn't come up and pick up Julita Lim and
6 take her, did he?

7 A. They went to a long lunch.

8 Q. Mr. San Miguel didn't even work that
9 time, that lunch, didn't he?

10 A. I know that, sir. But Julita Lim was
11 working.

12 Q. So let's be clear. Mr. San Miguel was
13 not working, and Julita Lim was entitled to a
14 lunch, was she not?

15 A. Yes, sir.

16 Q. And so she left on a lunch break?

17 A. Yes, sir.

18 Q. Now, what you are telling me is that
19 you are contending she did not come back in a
20 timely fashion?

21 A. Yes, sir.

22 Q. But Mr. San Miguel was not working at
23 that time, so he could take whatever time he
24 wanted, could he not?

25 A. Yes, sir.

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1 saying he thought you had a bad recovery?

2 A. Yes.

3 Q. All right. So that led to the meeting
4 on the 18th. Now, let's finish that up and then we
5 can take a break here.

6 You left the room and went
7 downstairs crying?

8 A. Yes, sir.

9 Q. And when you say "downstairs," is that
10 in the back area where the product is stored?

11 A. That is in our apparel stockroom.

12 Q. I'm sorry. What do you call it?

13 A. We call it apparel stockroom.

14 Q. Oh. Apparel stockroom. All right.

15 And who was there?

16 A. I think Sarah Dexter, Monica Batsch,
17 and Annmarie.

18 Q. What is Annmarie's last name?

19 A. I think it was Stout.

20 Q. And what did you tell them was the
21 reason why you were crying?

22 A. I was crying, and I said, "I think he
23 was trying to get rid of me."

24 Q. Now, why would you say that? You'd
25 worked for the man for six years. You had reported

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1 A. Yes, sir.

2 Q. And is that your signature at the
3 bottom?

4 A. Yes.

5 Q. We earlier talked about the Fred Meyer
6 Employee Responsibilities form. Is this the one
7 that you understood I was talking about and asking
8 you questions about?

9 A. Yes.

10 Q. All right. Now, at the top on the
11 second line, it has got a clause that says, "You
12 need to know and understand the principal reasons
13 for the action outlined below," and it has got
14 several categories.

15 Now, was this document ever
16 covered with you in any of your sessions upon
17 hiring or thereafter, when you signed it on a
18 regular basis?

19 A. Yes, sir. We read these. Then we sign
20 it.

21 Q. Right. Did you get a copy of this?

22 A. No.

23 Q. Well, if you look down at the bottom,
24 it has "Distribution." It's one of those documents
25 with, I think, at least three copies -- a white for

1 "Employee conduct which will result in immediate
2 termination without prior warning." And the first
3 one is "Dishonesty of any kind on or off the job."
4 And you understood that was a basis for immediate
5 termination, did you not?

6 A. Yes, sir.

7 Q. Okay. Under 1, Section 6,
8 insubordination is also conduct that will result in
9 immediate termination. Did you understand that?

10 A. Yes, sir.

11 Q. And then down under Item III, it has
12 got a heading, "The following conduct is regarded
13 and accepted as an employees's voluntary
14 resignation (quit) of his or her employment."
15 Number 1, "Walking off of the job." Did you
16 understand that?

17 A. Yes, sir.

18 Q. Section III, paragraph 4, "Failure to
19 return to work from an approved leave of absence as
20 scheduled." That's also a basis for concluding
21 that you have voluntarily quit. Did you understand
22 that?

23 A. Yes, sir.

24 (Exhibit 3 duly marked)

25

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1 Q. All right.

2 (Exhibit 4 duly marked)

3 BY MR. DICKENS:

4 Q. Ms. Johnson, can you identify
5 Exhibit 4, please?

6 A. Yes, sir.

7 Q. What is it?

8 A. This is our Employee Responsibilities,
9 same as the other exhibit.

10 Q. But just signed on April 1, 1997?

11 A. Yes.

12 Q. Any different understanding about this
13 one than the prior one? I'm sorry. Did you
14 understand my question?

15 A. I didn't understand what you say.

16 Q. Well, between the sneezing -- I'll try
17 again.

18 Ms. Johnson, with regard to No. 4,
19 is your understanding of the information on it the
20 same as for Exhibit 2, that first Employee
21 Responsibilities form?

22 A. I understand, sir. Yes.

23 Q. Okay.

24 MR. DICKENS: Mark this, please.

25 (Exhibit 5 duly marked)

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1 A. "Needs to improve on how to follow up
2 better on employees. Be aware of what is going on
3 in other areas."

4 Q. what did you understand him to mean
5 with regard to those comments about your planning?

6 A. He means to say that I should follow up
7 whatever project I give to the employees. And I
8 need to pay attention -- even if I have a project,
9 I need to pay attention in what is going on around
10 me.

11 Q. All right. Now, under Section 5, under
12 "Organizing," the check is "needs improvement," and
13 can you read what he's written there, since you are
14 familiar with his handwriting?

15 A. "Organize your work for the day.
16 Prioritize the task. Hard time getting work done.
17 Establish lines of responsibilities."

18 Q. Did you discuss those comments with
19 Mr. San Miguel?

20 A. Yes, sir.

21 Q. And what did you understand he was
22 asking you to do?

23 A. He wants me to prioritize the task.
24 what is meant by that, was when he give me the
25 project, or whoever give me the project, sir, we

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1 have to look at it, and we have to look -- which is
2 the most important thing?

3 As an assistant manager, I was
4 also trained that if we have a project -- it is on
5 our hands and we are doing it -- our most priority
6 is customer service and sales. So what is meant by
7 prioritize the task is, I could have 20 piece of
8 projects, but if I need to go there and make some
9 sale, I have to give that up, because our priority
10 is business, sales.

11 Q. Okay. Now, Item 6, under
12 "Controlling," he's written on "Focus on the
13 F/UPS."

14 A. It means focus on follow-ups.

15 Q. Follow-ups. So, again, he's asking you
16 to go back and make sure you follow up on things
17 you have begun earlier?

18 A. Yes, sir.

19 Q. Under "Communication," 7, he'd checked,
20 it looks like, "Needs Improvement," and then that's
21 kind of scratched out, and then "Meets
22 Expectations." Can you read what he's written
23 there?

24 A. "Focus on accepting feedback from
25 supervisor in a positive manner. Use it as a